

Exhibit L

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FILED

2013 APR 26 AM 9:56

U.S. BANKRUPTCY
CLERK
DISTRICT OF ARIZONA

1 **Philip A. Kenner**
2 *10705 East Cactus Road*
3 *Scottsdale, AZ 85259*
4 *Telephone (480) 235-4193*
5 *Plaintiff in Pro per*
6 *Email: Kenner33@gmail.com*

5 **IN THE UNITED STATES BANKRUPTCY COURT**

6 **DISTRICT OF ARIZONA**

7
8 In re: Tommy Constantine, } Case No. 2:12-bk-04842-EWHRTB
9 Debtor. } Chapter 11
10
11 Philip A. Kenner } PLAINTIFFS MOTION FOR
12 Plaintiffs. } RECONSIDERATION
13 vs. }
14 Tommy Constantine. } Respondents.
15
16
17

18 Plaintiff Philip Kenner (“Kenner”) moves, pursuant to Rule 3008 of the
19 Bankruptcy rules for an order for before the court to reconsider its order dated
20 April 24, 2013 to deny Kenner’s claim on the grounds that the court made its
21 decision without considering the evidence in opposition submitted by Kenner and
22 prior to the time Kenner’s response to Debtor’s Objection to Proof of Claim of
23 Philip Kenner was due. The service time was not complete when the order was
24 lodged. Kenner further moves and requests the court to reconsider his decision
25
26

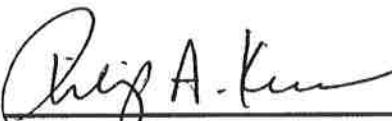
on the grounds set forth in his Plaintiffs Opposition to Debtors Objection to Proof
1 of Claim for Philip Kenner. Plaintiff requests a hearing to determine the Motion
2 for Reconsideration.
3
4

5 Plaintiffs original Opposition to Debtors Objection to Proof of Claim for Philip
6 Kenner filed April 25, 2013 is attached hereto.
7
8

9 **CONCLUSION**

10 For the foregoing reasons, and in the interest of justice, Plaintiff
11 respectfully requests that the Court reconsider its Order dated April 24, 2013.
12
13

14 RESPECTFULLY SUBMITTED this 26 day of April, 2013.
15

16 
17 Philip A. Kenner
18 10705 East Cactus Road
19 Scottsdale, AZ 85259
20 Telephone (480) 235-4193
21 Plaintiff in Pro per
22 Email: Kenner33@gmail.com
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25
26

COPY of the foregoing Filed
this 26 day of April, 2013, to:

US Trustee
230 North First Avenue, Suite 204
Phoenix, AZ 85003

COPY of the foregoing mailed
this 26 day of April, 2013, to:

Robert Warnicke, Esq.
GORDON SILVER
1 East Washington, Suite 400
Phoenix, AZ 85004
Attorney for Debtor/Defendant

By W. H. Lee

1
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10 **IN THE UNITED STATES BANKRUPTCY COURT**

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12 **DISTRICT OF ARIZONA**

13
14 In re: Tommy Constantine,
15 Debtor.

16 } Case No. 2:12-bk-04842-EWHRTB

17 Philip A. Kenner

18 Plaintiffs.

19 }
20 } **PLAINTIFFS OPPPOSITION TO**
21 } **DEBTORS OBJECTION TO**
22 } **PROOF OF CLAIM FOR PHILIP**
23 } **KENNER**

24 vs.

25 Tommy Constantine.

26 Respondents.

27 Plaintiff Philip Kenner (“Kenner”) submits his opposition to Debtors
28 Objection to Proof of Claim by Philip Kenner. Debtor attempts to fraudulently
29 delineate himself from both his obligations and alter egos by alleging that all of

1 the overwhelming funds that Debtor requested and received from Plaintiff Kenner
2 for his benefit to “save his life” be urgently transferred to third party creditors or
3 his alter ego corporation, Constantine Management Group, be disregarded in his
4 bankruptcy which is also littered from top to bottom with historically recreated
5 fraudulent conveyances to strawmen. The Debtors request should be denied.
6 This opposition is supported by the following Memorandum of Points and
7 Authorities and the Declaration of Kenner attached hereto.
8

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION**

11 This case arises over stock that Constantine sold to Kenner in
12 Constantine’s owned and managed company, Eufora (“Eufora”). Kenner and
13 Defendant Tommy Constantine (“Constantine”) engaged in an agreement that
14 was consummated over time (between 2007 and 2009) with Kenner forwarding
15 over \$1,000,000 of consideration to Constantine, Constantine’s alter ego, and
16 direct creditors of Constantine at his requests (typically under duress) for
17 Constantine’s stock in Eufora (20% of the company to be transferred by
18 Constantine). Constantine’s confirmed his acknowledgement of the deal through
19 the transfer to Kenner, Kenner’s entity Triple Diamond Black Trust, LLC in the
20 proposed 2010 Eufora Operating Agreement sent to all of the shareholders.
21
22

23 **II. BACKGROUND**

1 Kenner has known Constantine for approximately ten (10) years after being
2 introduced by a mutual business acquaintance. Exhibit 1, Declaration of Philip A.
3 Kenner. Kenner ended up being Constantine's main funding source for his Pre-
4 paid company Eufora through his own contributions and those of Kenner's
5 friends and clients over an eight (8) year period of time from about 2002 to 2010.
6 The successes of Eufora were always "right around the corner" but were
7 constantly lacking capital to finally push the success of the company over the
8 edge according to Constantine. Constantine is a tremendous and glib sales
9 person and possesses the unique ability to create confidence in his investment
10 companies even in the face of the façades he presented throughout Kenner's
11 relationship with him. In 2010, Kenner and Constantine discontinued their
12 speaking relationship as a result of an investigation that began regarding
13 Constantine's misuse of corporate assets at Eufora over a lengthy period of time.
14 The investigation was spearheaded by two of the Board Members of Eufora that
15 Constantine, himself, appointed.
16

17 **III. ARGUMENT**

18 Defendant Constantine attempts to divert the attention of the court from
19 the simple fact that the funds that were delivered at Constantine's request over
20 and over to himself, his alter ego, Constantine Management Group, or third party
21 creditors of Constantine's. The requested funds by Constantine from Kenner were
22 and are still transfers that directly benefitted Constantine and no one else.
23
24
25
26

1 Defendant Constantine attempts to distract the court from paying attention
2 to the communications between the parties, Kenner and Constantine, that clearly
3 show the personal (*for emphasis*) requests Constantine made to Kenner for
4 transfers to “save him”. See Kenner’s declaration attached.
5

6 Defendant Constantine also attempts to leave out the Eufora Operating
7 Agreement (Exhibit 3-Kenner affidavit) created by then CEO, Constantine, to
8 offer a remedy to the accusers of his Eufora embezzlement scheme, including
9 Kenner. Constantine reaffirms the deal he struck with Kenner for the shares of
10 Eufora, thus, representing a 12% stake (in lieu of the 20% agreed upon) in the
11 company if the new plan, including an indemnity agreement for Constantine
12 would be approved by his accusers.
13

14 Approximately nine (9) months earlier, after being constantly harangued
15 by Kenner due to Kenner’s growing concern for the unfulfilled promises of the
16 stock transfer, Constantine confirmed in one of his very rare written
17 communications how he was planning to “reshuffle” some of the Eufora equity to
18 transfer at least ten (10) of the twenty (20) percent he offered and Kenner agreed
19 upon. It relieved Kenner at that time since it was “in writing” and bought
20 Constantine some relief from Kenner’s constant demands.
21
22

23 All transfers at Constantine’s request were in exchange for the future
24 transfer of Constantine’s Eufora shares. The only exception to that is applied to
25 the direct transfers that were made to Eufora on Constantine’s behalf as loans.
26

1 Constantine requested the "direct to Eufora" transfers as a means of keeping the
2 company from "going out of business" and losing everything he worked for
3 according to him. Constantine always purported those funds loaned to Eufora
4 were represented on Eufora's pre-2009 closing documents with Neptune Capital.
5 They were at all times expected to be repaid to Kenner through Eufora and by
6 Constantine.

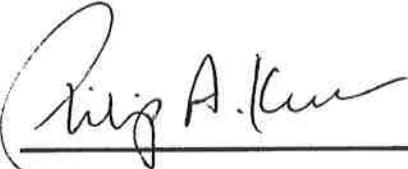
8 **CONCLUSION**

9 Constantine's presentation of the New Eufora Operating Agreement in
10 2010, as its CEO, confirms the ongoing offers and negotiations between the
11 parties related to the shares Kenner purchased through transfers to Constantine,
12 Constantine's alter ego (Constantine Management Group), and other direct
13 creditors of Constantine.

14 For the foregoing reasons, Defendants' objection must be denied.
15

16
17
18 RESPECTFULLY SUBMITTED this 25 day of April, 2013.
19

20
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25
26



Philip A. Kenner

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Scottsdale, AZ 85259
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Email: Kenner33@gmail.com

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5 this 25 day of April, 2013, to:

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7 230 North First Avenue, Suite 204
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9 this _____ day of April, 2013, to:

10 Robert Warnicke, Esq.
11 GORDON SILVER
12 1 East Washington, Suite 400
Phoenix, AZ 85004
13 Attorney for Debtor/Defendant

14

15

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**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA**

In re: Tommy Constantine,

Case No. 2:12-bk-04842-EWHRTB

Debtor.

Philip A. Kenner

Plaintiffs.

vs.

Tommy Constantine.

Respondents.

**DECLARATION OF PHILIP
A. KENNER**

I, PHILIP KENNER, declare as follows:

1. I am the plaintiff in the above-entitled action.

1 2. I met Tommy Constantine in or about 2002 in Scottsdale, Arizona.
2 Constantine was introduced to me as a wealthy entrepreneur who was on the brink of
3 "breaking the bank" according to Constantine in our first meeting.
4

5
6 3. I spent a considerable amount of time with Constantine in the first year
7 after meeting him, specifically with regards to his company, Eufora, LLC.
8

9
10 4. At the time, Constantine confessed to me that the downturn in the stock
11 markets had drastically affected his vast wealth, but his company, Eufora, was about
12 to be the biggest entity in the Pre-Paid debit card space based on the Credit Building
13 patents that he had developed only a year or two prior. The origination of the Credit
14 Building concept varied depending on what day and what audience Constantine was
15 telling the story to. I heard many versions of the story.
16

17
18 5. In or about 2002, myself and a few friends and clients at the time, began
19 to get involved with Constantine and Eufora both financially as investors and in a
20 management role. From day one, Constantine always told me that I was like a brother
21 to him, and we were going to "break the bank" together when Eufora released its
22 patented process to the Pre-Paid world.
23

1 6. The next five to six years were long and draining on the company as
2 Constantine repeatedly claimed he, personally, and Eufora were simultaneously on the
3 brink of vast financial fortunes while Constantine and Eufora struggled daily to stay
4 alive.
5

6 7. Constantine, on behalf of Eufora, had come to me, personally on a
7 number of occasions and asked for loans to him, which would be sent directly to
8 Eufora to keep the company from going out of business. These were the only funds
9 Constantine ever requested from me as loans. Constantine confirmed the funds would
10 be his responsibility but ultimately repaid by Eufora. I found out later that
11 Constantine would typically withdraw a portion of the funds he borrowed "for Eufora"
12 and transfer them to his pre-paid debit card to pay for his personal bills and expenses;
13 *embezzlement*. His requests and Armageddon speeches about the company were
14 always (*for emphasis*) accompanied with the forecasts of vast and immeasurable
15 fortunes immediately around the corner. To Constantine's credit, he is a great
16 salesperson, even when his stories played out to have no substance behind them.
17
18

19
20 8. Constantine objects to my idea that some of the funds I transferred to
21 Constantine over the years were loans and some investments. SPECIFICALLY the
22 direct transfers to Eufora were loans as requested and described by Constantine. He
23 always told me that he, through Eufora, would be paying me back for those funds.
24 The other fund transfers were always seduced from me by Constantine in exchange for
25
26

1 Eufora stock that he “owned” at a point in the future when he and Eufora were no
2 longer burdened by first, Constantine’s lack of time to document the deal (Fraudulent
3 inducement, unjust enrichment) and then, second, by the ~\$3,000,000 loan to Neptune
4 Capital, which Constantine signed on behalf of the company in or about February
5 2009. I later learned that the Neptune restriction was not true.
6

7 9. I, personally, at Constantine’s requests, forwarded over \$1,000,000 to
8 Constantine and other third party creditors of his under Constantine’s representations
9 of duress. EXHIBIT 1. Although Constantine’s attorneys ask the bankruptcy courts to
10 delineate Constantine from the various third party creditors and/or Constantine’s
11 wholly-owned Constantine Management Group, his alter ego. It is clear that each of
12 the request totaling over \$1,000,000 were to assist Constantine personally from his
13 “crisis of the day”. Constantine consistently begged for my assistance through his
14 pleas of total and complete failure as follows:
15
16

17
18 On May 3, 2008, “Besides I m fucked?...”,
19 On May 8, 2008, “Dude they are totally fucking me...Dude. I give up. Seriously”
20 On May 21, 2008, “And its all over bro.”,
21 On or about summer 2008, “...I pulled this shit before. Oh and I am BROKE BROKE BROKE
22 and on my way to the Middle East!”,
23 On August 19, 2008, “I need you to take me and my family out to lunch...and
24 dinner...Honestly right now I just need to be able to eat and buy gas”,
25
26

1 On September 3, 2008, "Yeah I am so broke I couldn't get laid in a Russian whorehouse on
2 Rubel night. That's all the news I have." This was only one day after Constantine confirmed
3 receipt of \$2,000 I sent him, and

4 On November 28, 2009, "I understand bro. I'm just tired of looking like n idiot".

5 Exhibit 1 is true copies of Constantine's plea(s) for assistance.

6
7 10. On or about August 2, 2010, Constantine sent a message to the
8 shareholders of Eufora through his attorney, Lee Weinberg. The following language
9 in the email states, and further confirms that Constantine was acknowledging my
10 interest in Eufora for the first time officially per the "*cash investment*" language
11 below. A true and accurate copy of the email that was sent is attached as Exhibit 2.
12 Attached to the letter from Constantine's attorney, Weinberg, is a New Eufora LLC
13 Operating Agreement representing all of the new shares, and in particular, my interest
14 (12%) through my Delaware LLC, Triple Diamond Black Trust. A true and accurate
15 copy of the Operating Agreement that was sent is attached as Exhibit 3. In order to
16 create relative value, upon information and belief, Constantine used his 2009 deal with
17 Sergei Gonchar and his \$500,000 investment in Eufora. A true and accurate copy of
18 the email that was sent is attached as Exhibit 4. Gonchar's 2009 investment netted
19 him (through his Gonchar Family Revocable Trust) 4.75% Class B interest in the New
20 Eufora. Although Triple Diamond Black Trust does not have the 20% Constantine
21 and I agreed upon for all of my "life saving" transfers to his creditors and himself, this
22 roughly equates to the percentage or ratio Constantine represents to Gonchar (a
23
24
25
26

1 friendly party to the Constantine bankruptcy) for his \$500,000 investment. It is clear
2 through Constantine's representation to the entire "cash investors" of Eufora that my
3 interest has been confirmed in writing by Constantine's own offering, thus
4 contradicting Constantine's claim that there is no deal between he and I "in writing".
5

6 Excerpt from Weinberg's letter:

7 *Plan for the Reorganization*

8 The Lender has agreed (for a limited time and subject to the reorganization of
9 Old Eufora) to convert the Loan into a lower priority Class A (equity)
10 ownership interest in the reorganized Eufora entity ("New Eufora"). Under the
terms of the Plan, New Eufora will emerge debt-free.

11 New Eufora was formed as a Delaware limited liability company for this
12 specific purpose and will, as a result of the reorganization under the Plan, be
13 the beneficial owner of all of the business of Old Eufora and all of its assets.
All participants in the Plan will own their interests in and through New Eufora.

14 Below are some of the key "deal points" reflected in the Plan Documents:

15 1. ***Each Identified member of the AZ Eufora Partner entities who
made a cash investment for a beneficial interest in Old
Eufora shall exchange all relevant AZ Eufora Partner entity
ownership interests for New Eufora ownership Interests in the
form of Class B Units.*** The exact percentages and number of Class B
16 Units for each Unitholder is set forth on Schedule I of the New Eufora
17 Operating Agreement, a copy of which is sent along with this letter.
18

20 11. Constantine has represented to the bankruptcy courts that he transferred
21 his entire Eufora holdings to Sue Ellen Ferguson, Trustee of The 2002 Trust in 2003.
22 Constantine's attempted fraudulent conveyance of Eufora shares is a scheme to
23 defraud the bankruptcy court and a scheme to keep the court from liquidating this asset
24 or consider it as part of Constantine's proposed restructuring.
25

1
2 12. To contradict his own position in bankruptcy, Constantine actually
3 signed the Eufora re-filed tax documents for the years 2004, 2005, 2006 & 2007 in
4 September and October of 2009. All copies of the returns have previously been
5 provided in Kenner v Constantine (Adverse Proceeding: 2:13-ap-00330-EWH). On
6 all four year-ending K-1s, Constantine represents through Eufora's tax records and his
7 signature that he, *personally*, owned 49% of Eufora. There is no mention on the
8 Eufora tax records, personally signed by Constantine as an officer of the company, of
9 Constantine's shares being owned in any alternative entity until the filing of his
10 bankruptcy several years later. I was aware of the Eufora tax re-filings, because
11 Constantine showed me the new tax filings in his office in late 2009. While
12 discussing the huge financial windfalls on the immediate horizon for Eufora,
13 Constantine wanted to confirm to me that I was covered in our deal (20% of Eufora
14 from his holdings). Constantine was trying to please me and gain my patience when I
15 confronted him that same day about mis-spending millions of dollars in another,
16 unrelated deal. Constantine confirmed to me (by viewing the recently re-filed Eufora
17 tax records) that he still owned plenty of the Eufora stock in order to fulfill the 20%
18 transfer to me when he was "allowed" to do so, per the Neptune lending agreement
19 with Eufora. Constantine reiterated that once he finished the licensing deal with
20 MetaBank and a few others, there would be so much money for me and all the
21 investors that no one would care about his slight indiscretions, in his mind.
22
23
24
25
26

1
2 13. In one of Constantine's rare written messages, Constantine confirmed
3 that he was going to "reshuffle" the equity of some of the investors in Eufora that he
4 no longer wanted in the company, and sent Exhibit 9 to me to confirm how he was
5 going to fulfill at least ten (10) of the twenty (20) percent of our agreed upon transfer.
6 Constantine's fear of future litigation and his inability to re-write history to fit his
7 stories to me and others (one of his signature moves) kept him from confirming many
8 of his deals in writing. Constantine was masterful at pacifying and quelling my
9 concerns over unfulfilled promises. At this time, I felt more comfortable, because for
10 the first time, I actually had a "written" confirmation of the equity (at least partial) that
11 we agreed upon.

14 14. In order to entice me to be patient with Constantine and his pending
15 successes, Constantine would send text messages describing deals ready to "break the
16 bank" as in Exhibit 5 from MetaBank. The Meta Bank deal with "28million
17 cardholders and potentially paying about \$5/mos", Eufora would have grossed (with
18 little to no overhead) approximately \$140 million per month according to Constantine.
19 I was overwhelmingly supportive, since Constantine had agreed to transfer a 20%
20 stake in Eufora to me.

23
24 15. True and accurate copies of Constantine's consistent requests for funds
25 "to save him" are represented in Exhibit 6, as follows:
26

1

2 On April 16, 2008, “I need @5(k) more for TASER Network tomorrow... REALLY Need help
3 on the \$17(k) for Hilton (Constantine’s Airplane hangars) the 40(k) for the FL lawyer (Hal
4 Prewitt suit for fraud v. Constantine) and 40(k) for the car (Playboy race car repairs)”

5

6 On April 18, 2008, “I need to send the \$17(k) to Hilton right away...”, Kenner: “Send me
7 Steve’s wire instrx asap”.

8

9 On May 21, 2008, “I need \$48k TODAY or I’m finished. I don’t care what I have to do. Its all
10 over for me if I fail.”

11

12 On July 1, 2008, “I need 30k TOMORROW. Anything you can do would be critical to my
13 survival.”

14

15 On August 11, 2008, “\$157k for Falcon plus \$9k for engine computers to Mark Nolan.”
16 Kenner: “OK... Tell him to call me”

17

18 On August 13, 2008, “Dude, Eufora cant even float the \$6k for the repair bill let alone another
19 \$4k...Kenner: “10k went to CMG. Confirmed.” Constantine: “Love You”.

20

21 On September 12, 2008, Kenner: “Playboy was paid in FULL”. Constantine: “Thanks
22 Superman... You’re the best”.

23

24 On September 11, 2008, “If I don’t shit \$56k tomorrow I’m done”.

25

1 On October 19, 2008, "Dude if I don't shit \$5k in the next 24 and \$75k in the next 72 its all
2 over"

3
4 At that point in time, I had forwarded well over \$1,000,000 to Constantine who agreed
5 over and over would be in exchange for 20% of Eufora (all coming from his 49%
6 holding). On or about January 14, 2009, Constantine asked me to start gathering the
7 total funds that I forwarded to him as a result of our deal, since he was in the middle of
8 finishing a lending agreement with his friend Brent Nerguzian, the owner of Neptune
9 Capital. I forwarded Exhibit 7 to Constantine, which represented a partial list totaling
10 approximately \$1,546,000 as follows:

11
12
13
14 850 CMG. 17 Avalon. 3350 hunter. Pp31 290. Sundance 52. Greenberg 45. Sonnenschein
15 27. Peii (playboy) 103. KD Aviation 39. Unitech 70. Main st 25. Got2goRcing 25. Others
16 not included...

17 Constantine told me he needed the list of payments for the Eufora stock, so he could
18 share it with Neptune. Constantine told me he needed to disclose all of his deals
19 related to the stock that Constantine was going to pledge for the new deal.

20
21
22 16. Constantine did not like to discuss deals, specifically the particulars of them, in
23 any written format, so there are not many records of the deals Constantine made
24 regarding his own stock. A few of those communications are attached as true
25 and accurate copies in Exhibit 8:

1
2 On April 4, 2008, Kenner: "I still need you to email me the 1% doc for Eufora.
3 Thx..."
4

5 On July 8, 2008, Kenner: "50k confirmed to cmg today. 200k within 72 hours... 2 1/2
6 percent of Eufora. Pk
7

8 On August 7, 2008, Kenner: "Can u provide me with a list of dates & amounts CMG
9 rec'd funds in exchange for equity recently. I need to finalize the documentation..."
10

11 17. Finally, in response to Constantine being investigated by his own Board of
12 Directors at Eufora in 2010 for embezzlement and other frauds, Constantine
13 (through his attorney) represent the following to the investors/accusers in
14 Eufora:
15

16 "Any adjustments necessary to facilitate this most favorable scenario for the members
17 of the AZ Eufora Partner entities will come directly from the ownership interests that
18 today belong to Tommy Constantine."
19

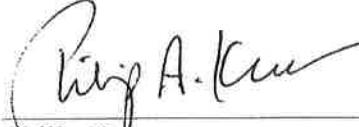
20 18. This incredible statement from Constantine and his attorney is in 2010. It is a
21 year after Constantine signed the re-filed tax returns for Eufora, restating the
22 2004, 2005, 2006 and 2007 tax years. It is also approximately seven (7) years
23 after Constantine alleges in his Chapter 13 bankruptcy filing that he transferred
24 ALL (*for emphasis*) of his Eufora holdings to Sue Ellen Fergusson, Trustee of
25
26

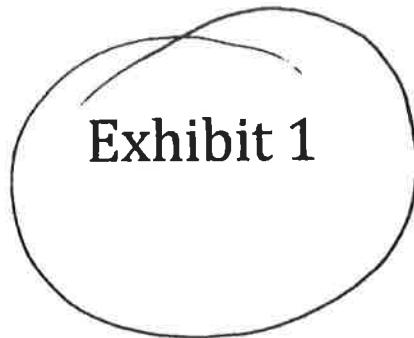
1 the 2002 Trust. I believe this never happened and has been created to
2 fraudulently convey and protect Constantine's asset in Eufora from creditors
3 and the bankruptcy court.
4
5

6 19. I have provided true and accurate copies of my personal, redacted bank
7 records to support each of the transfers that were made to Constantine and/or to
8 his creditor at his request on each and every occasion in my Proof of Claim.
9
10
11
12
13

14 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS**
15 **TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.**
16

17 DATED THIS 25 day of April 2013.
18
19

20 
21 Philip Kenner
22 Plaintiff, in Pro Per
23
24
25
26



AT&T

1:43 PM



Messages

Constantine...

Edit

Let me know your thoughts on the 2 Palms units...\$\$, so I can give Wells Fargo a P&S agreement that is signed to start working...

May 3, 2008 3:51 PM

Any news??

Besides I m fucked? No.

May 3, 2008 4:05 PM

Call u in an hour when I land

May 4, 2008 3:52 PM

Call me anytime...

May 4, 2008 9:36 PM



AT&T

1:20 PM



Messages

Constantine...

Edit

Call

Contact Info

Load Earlier Messages

May 8, 2008 2:16 PM

I'm in forclosure with no
remedy in 2 hours and 45
minutes. I'm losing
Fucking House dude!

They are totally fucking
me

I know...

Dude. I give up. Seriously.

May 8, 2008 3:01 PM

Working on it.



AT&T

1:46 PM



Messages

Constantine...

Edit

May 21, 2008 4:06 PM

And its all over bro.

May 21, 2008 4:42 PM

I'll call u shortly. I've been bad, sick today. I think I got some food poison. Can't move at all... Just trying to get up

I 'm sorry bro. Dude were done. Or at least I am. You dont need to call me, it was game over at 2 o'clock.

I'm calling when I get up

May 22, 2008 10:35 AM



Send

AT&T

2:05 PM



Messages

Constantine...

Edit

overdrawn by \$300-\$1500
for 2 weeks. The lawyers
are quest

ioning my integrity
because I pulled this shit
before. Oh and I am
BROKE BROKE BROKE
and on my way to the
Middle East!

Do u want a different
hotel?? Tell me which
one is closer...

I dont know. Thats the
least of my problems bro.

Ok but let's at least get it



AT&T

1:58 PM



Messages

Edit

Constantine...

Aug 19, 2008 8:50 AM

I need you to take me and
my family out to
lunch...and dinner.

Anything u need

Aug 19, 2008 8:53 AM

Honestly right now I just
need to be able to eat and
buy gas.

Aug 19, 2008 9:30 AM

Where are u right now??

Home

I'll be by shotly

Aug 19, 2008 11:18 AM



Case 2:13-cr-00607-JFB-AYS Document 157-12 Filed 01/29/15 Page 28 of 36 PageID #: 1202

Case 2:12-bk-04842-EWH Doc 174 Filed 04/26/13 Entered 04/30/13

Main Document Page 27 of 35

Send

AT&T

1:59 PM



Messages

Constantine...

Edit

In shower. Call you back

Ok

Sep 2, 2008 7:52 PM

Thank you for the \$2k

Welcome

Sep 3, 2008 12:26 PM

Any news?? I'm taking off for Chicago now...

Yeah I am so broke I couldnt get laid in a russian whorehouse on Rubel night. Thats all the news I have.



AT&T

1:14 PM



Mess...(1)

Constantine...

Edit

Nov 28, 2008 11:26 AM

Will you be able to help?

Nov 28, 2008 11:26 AM

My bankers are out today
on vacation. I can't get
anything out today. I've
been calling them all AM.

Pk

FUCK!

buddy. I assume most
bankers, etc are gone for
the long weekend. I can't
find anyone today.

I understand bro. I'm just
tired of looking like n idiot



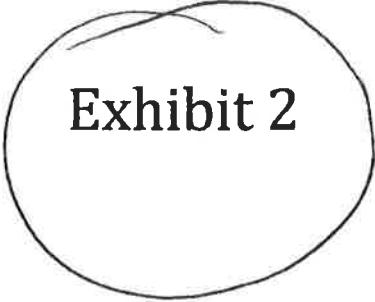


Exhibit 2

Friday, April 26, 2013 7:17:10 AM MST

Subject: Fwd: Plan Documents relating to Eufora, LLC (AZ) and Eufora, LLC (DE)

Date: Wednesday, April 24, 2013 12:22:52 PM MST

From: phil kenner

To: kenner33@gmail.com

pk

From: Lee Weinberg [mailto:lee@weinberg-gonser.com]

Sent: Tuesday, August 03, 2010 11:32 AM

To: Lee Weinberg

Cc: Michael Stolper

Subject: Plan Documents relating to Eufora, LLC (AZ) and Eufora, LLC (DE)

Importance: High

To all Eufora interested parties for whom we have an email address:

Please see and review the attached letter (copied below) and the following related and referenced Plan Documents (also attached to this email):

- the Eufora Plan Transmittal Letter and Subscription Agreement;
- the New Eufora Operating Agreement
- a copy of the Eufora Loan Conversion Agreement of Eufora Capital II, LLC dated July 22, 2010
- the Form of Warrant to Purchase New Eufora interests in favor of Eufora Capital III, LLC
- the Universal General Release for Eufora

Your prompt review and action in support of the Plan and Plan Documents will be appreciated, and Mr. Constantine will be pleased to discuss any and all of the same. If you are represented by counsel, you may have such counsel to contact me directly.

Mr. Stolper is copied as a courtesy.

Very truly yours,

Lee Weinberg
WEINBERG GONSER LLP
2029 Century Park East, Suite 900
Los Angeles, California 90067
main: 310-697-8958, x 201

direct: 310-789-1162 (office hours only)
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WEINBERG GONSER LLP

LEE M. WEINBERG

310.697.8958, x 201 direct

lee@weinberg-gonser.com

August 2, 2010

Investors in or Members of Old Eufora,
an Arizona limited liability company ("Old Eufora");

Investors in or Members of AZ Eufora Partners I, LLC, AZ Eufora Partners II, LLC,
AZ Eufora Partners III, LLC, and AZ Eufora Partners IV, LLC (each a Delaware limited liability company, and collectively the "AZ Eufora Partner entities"); and

Other beneficial owners of interests in Old Eufora

Subject: Exchange of Old Eufora Interests into New Eufora and Reorganization

I am sending this letter to you on behalf of our client, Tommy Constantine, acting CEO and one of the Managers of Eufora, LLC, an Arizona limited liability company ("Old Eufora").

Via my prior correspondence, my client, Mr. Constantine shared a plan of reorganization for Old Eufora pursuant to which all holders of any beneficial interests in Old Eufora are exchanging such interests for ownership interests in New Eufora (the "Plan"). Mr. Constantine has pursued the Plan on behalf of Old Eufora and its beneficial owners (including those who may have beneficial interests in Old Eufora via one or more of the AZ Eufora Partner entities) since late in 2009, and retained WEINBERG GONSER LLP to review and refine existing Plan documents and to produce a full set of formal documentation (the "Plan Documents") to reflect the key deal points of the Plan set forth below. Those Plan Documents are being delivered concurrently with this letter to you and to all other parties thereto who we are able to contact by email.^[i]

You are receiving this letter because Old Eufora has identified you as a beneficial owner of a membership interest in Old Eufora (directly or via your membership in one of the AZ Eufora Partner entities, or both).

The Plan documents (including the New Eufora Operating Agreement and the Universal General Release (as described below) must be signed and delivered by all concerned by August 5, 2010 in order for you to obtain your New Eufora Units and to meet the Deadline of the Lender.

Assuming participation of all parties on or before August 5, 2010, only New Eufora will hold interests in Old Eufora after the closing of the transactions contemplated by the Plan.

The Loan Purchase and the Plan for Eufora

As explained by my prior correspondence, Old Eufora negotiated and entered into a loan and related security and control agreements (the "Loan") with Neptune Company Asset Holdings, LLC ("Neptune") in early 2009, and Old Eufora defaulted under many provisions of the Loan agreements. Since the occurrence of such events of default (and until very recently), Neptune has been in a very strong position under the Loan agreements to take actions that could be highly unfavorable to the existing beneficial owners of Old Eufora, including

Neptune's ability to exercise its rights and remedies under the Loan agreements and take over the business of Old Eufora and all of Old Eufora's assets.

Fortunately, Mr. Constantine was able to intervene and negotiate with Neptune and achieve forbearance and a grace period from Neptune under the Loan agreements for over six months. During this time, in order to keep Neptune from taking possession of the company and its assets, Mr. Constantine was also able to find a buyer for the Loan that met all of Old Eufora's requirements while also meeting Neptune's requirements. The buyer of the Loan, Eufora Capital III, LLC, is managed by Dominic Volpe (the "Lender").

It has come to Mr. Constantine's attention that there may be some resentment among certain of the investors in, or members of, the AZ Eufora Partner entities regarding their ability to obtain a greater ownership interest in New Eufora, especially via a participation in the Loan. Mr. Constantine will be pleased to discuss with anyone what actually transpired with respect to the purchase of the Loan from Neptune, and the reasons that an amicable third-party buyer for the Loan is and was in the best interest of the company and all of its owners. The Lender provided a great opportunity to get out from under the Neptune Loan and all of its ancillary agreements, and the majority of all members of Old Eufora (and New Eufora under the Plan) still continue to believe this is and was the correct decision for all parties in spite of the immense stress imposed on Eufora and the Lender by the interference of Mr. Stolper and those who supported him. Nonetheless, if after speaking with Mr. Constantine any such party still has a desire to obtain more ownership interests in New Eufora, Mr. Constantine strongly believes he can facilitate a purchase from other members of the company over the next 30 days of up to the same 11.8% ownership interest in New Eufora as the Lender was afforded under the Plan at the same purchase price and \$25 million dollar valuation being paid by Eufora Capital III, LLC. Any member who after speaking with Tommy wishes to participate in such a purchase should contact Mark D'Ambrosio.

Plan for the Reorganization

The Lender has agreed (for a limited time and subject to the reorganization of Old Eufora) to convert the Loan into a lower priority Class A (equity) ownership interest in the reorganized Eufora entity ("New Eufora"). Under the terms of the Plan, New Eufora will emerge debt-free.

New Eufora was formed as a Delaware limited liability company for this specific purpose and will, as a result of the reorganization under the Plan, be the beneficial owner of all of the business of Old Eufora and all of its assets. All

participants in the Plan will own their interests in and through New Eufora.

Below are some of the key "deal points" reflected in the Plan Documents:

1. Each identified member of the AZ Eufora Partner entities who made a cash investment for a beneficial interest in Old Eufora shall exchange all relevant AZ Eufora Partner entity ownership interests for New Eufora ownership interests in the form of Class B Units. The exact percentages and number of Class B Units for each Unitholder is set forth on Schedule I of the New Eufora Operating Agreement, a copy of which is sent along with this letter.
2. Members of the AZ Eufora Partner entities will not be required to contribute any additional capital to facilitate the transactions leading to Eufora's re-organization and New Eufora under the Plan or to obtain a direct and undiluted ownership interest in New Eufora. All dilution, which will be significant, will be absorbed by Tommy Constantine from his personal equity interests.
3. The Lender will contribute to New Eufora its rights under the Loan, including the primary Loan obligation (which is in default, is currently accruing interest at the default rate of 18% per year, and under which the Lender has the right to immediately take control of all the assets of the Company). Instead of taking advantage of all its rights, the Lender has agreed to participate in this Plan subject to the participation of all parties. The Lender will also contribute new cash to New Eufora such that such Loan rights and such new cash will have an aggregate value of approximately \$2,950,000. In exchange for such contributions, the Lender will receive approximately 11.8% of New Eufora's ownership interests in the form of Class A Units. Such Class A Units will have a preference on distributions from New Eufora until the approximately \$2,950,000 in capital contributed to New Eufora is returned to the Lender (after which point all distributions will be shared *pro rata* by all members of New Eufora in both Class A and Class B). The Lender, however, will not be paid any interest on its \$2,950,000 preference. In other words, the Lender gets the first \$2,950,000 out before distributions are made to New Eufora Class B Unitholders, but with no interest and with no deadline. All other holders of Class A Units will have the same preference.
4. Under the Plan, part of the cash contributed by the Lender to New Eufora will be used to pay off all of Old Eufora's short-term debt and all of Old Eufora's outstanding trade payables. The remaining portion of the cash